

The House Committee on Budget & Fiscal Affairs Oversight offers the following substitute to HB 197:

A BILL TO BE ENTITLED
AN ACT

To amend Article 4 of Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Office of Planning and Budget, so as to provide for the establishment of the Georgia Data Analytic Center; to provide for definitions; to provide for the operation of the system; to provide for data submission from state agencies and departments; to provide for reporting; to provide for funding; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 4 of Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Office of Planning and Budget, is amended by revising Part 3, which is reserved, as follows:

"Part 3

45-12-150.

As used in this part, the term:

- (1) 'Aggregated data' means information that has been combined into groups showing averages or other summary statistics and that is not individually identifiable information.
- (2) 'De-identified data' means information that does not identify an individual, for which there is no reasonable basis to believe that the information can be used to identify an individual, and that meets the requirements for de-identification of protected health information as defined under HIPAA.
- (3) 'GDAC Project' means the Georgia Data Analytic Center established pursuant to this part.
- (4) 'Health data' means information that is created or received by a state agency or department that relates to the past, present, or future physical or mental health or

condition of an individual or the past, present, or future payment for the provision of health care services to an individual.

(5) 'HIPAA' means the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and any regulations promulgated thereunder by the United States secretary of health and human services.

(6) 'Individually identifiable information' means information that identifies an individual or for which there is a reasonable basis to believe that the information can be used to identify an individual.

(7) 'IRB' means an institutional review board designated by the office and established pursuant to federal regulations (45 C.F.R. Section 46) with a nation-wide assurance for the protection of human subjects approved by the United States Department of Health and Human Services, Office for Human Research Protections, to review and monitor research involving human subjects to ensure that such subjects are protected from harm and that the rights of such subjects are adequately protected.

(8) 'Office' means the Office of Planning and Budget.

(9) 'Protected health information' has the same meaning as provided for under HIPAA in effect as of July 1, 2019.

(10) 'Research' means a systematic investigation, including research development, testing, and evaluation, which is designed to develop or contribute to generalizable knowledge as defined pursuant to 45 C.F.R. Section 46.102(d).

(11) 'Researcher' means a public or private entity that conducts research under the review and monitoring of an IRB and has received approval from the data steward for the purpose of requested data elements. ~~Reserved.~~

45-12-151.

(a) No later than September 1, 2019, the office shall establish an operational Georgia Data Analytic Center capable of securely receiving, maintaining, and transmitting data in accordance with this part and with the HIPAA privacy and security standards applicable to this part. The office may employ staff to assist with carrying out the functions associated with the establishment and maintenance of the GDAC Project.

(b) The office shall ensure the procurement of hardware, software, and a data base system capable of performing analytics at scale and capable of evaluating all data to the extent required to carry out the purposes of the GDAC Project pursuant to this part. Further, the office shall procure sufficient management services to develop and maintain the system.

(c) Notwithstanding any provision of this part to the contrary, the GDAC Project shall seek to receive and maintain individually identifiable data but transmit de-identified data wherever possible and shall only receive, maintain, and transmit individually identifiable

information if permitted by this Code section and other applicable law and if the information is in a form and format that are secured to prevent disclosure of individually identifiable information.

45-12-152.

Oversight of the operation of the GDAC Project established pursuant to this part shall be vested in the office. The GDAC Project shall receive, maintain, and transmit data only as permitted by this part and as approved by the office and the state agency or department whose data are requested. The office's responsibilities with respect to this part shall include:

(1) Identification of data that have been created, received, or maintained by state agencies or departments that may be appropriate for receipt, maintenance, and transmission by the GDAC Project in furtherance of the purposes of this part;

(2) Prior to the receipt of data by the GDAC Project, review and approval of the appropriateness of such receipt, including consideration of the following factors:

(A) Whether the transmitting agency or department has authority to collect the data proposed to be received by the GDAC Project, particularly if the data include individually identifiable information;

(B) Whether collection of the data proposed to be received by the GDAC Project is expected to further the purposes of this part, namely, the improvement of public health and the safety, security, and well-being of Georgia residents; and

(C) Whether reasonable efforts have been made to ensure that the GDAC Project will receive only the appropriate data needed to accomplish the purposes of this part;

(3) Prior to the receipt or transmission of data by the GDAC Project, review and approval of any necessary data use agreements or business associate agreements with any person or entity from which or to which information is received or transmitted in compliance with all applicable privacy and security standards, including, but not limited to, HIPAA, when such data include individually identifiable information that is protected health information;

(4) Adopting and publishing policies and procedures for the efficient and transparent operation of the GDAC Project, including, but not limited to, the following:

(A) Privacy and data security policies and procedures that comply with the applicable federal and state privacy and security statutes and regulations, including HIPAA;

(B) Data access policies and procedures that allow access by a public or private entity, including a researcher, only when such access request meets the standards set forth in the data access policies and procedures and has been approved by the office and the appropriate state agency or department. When data access is requested by any public

or private entity, including a researcher, for the purpose of conducting research, the office shall only approve access to data after review and approval by an IRB, and such access shall be limited to data identified in approved IRB research protocols and only for the period of the approval. In no event shall the office approve access to health data that identifies, or that may be used to identify, rates of payment by a private entity for the provision of health care services to an individual unless the entity seeking access agrees to keep such information confidential and to prevent public disclosure of such data or the rates of payment derived from such data;

(C) Data retention policies requiring that data be returned to transmitting state agencies or departments or destroyed when it is no longer in the state's interest to promote analysis of such data and in accordance with applicable HIPAA regulations, data use agreements, and provisions of IRB approvals;

(D) Policies to require researchers to consult with subject matter experts in the data sets being linked on a specific project. The purpose of such consultation shall be to help researchers understand and interpret the data being linked to a specific project; and

(E) Policies that establish processes to engage researchers and academic institutions across Georgia to help set research priorities and promote the use of the GDAC Project to accelerate population health research in this state;

(5) Communicating to all state agencies and departments that each state agency or department shall, upon request of the office, make available to the office through the GDAC Project all data housed within its respective office pursuant to policies established pursuant to this Code section;

(6)(A) Establishing the process by which each state agency or department is required, in consultation with the office, to identify and submit to the office a minimum of two distinct policy concerns that may be studied in an integrated information environment in order to identify evidence based solutions to such policy concerns; and

(B) Establishing procedures for ranking the submission and selection of such policy concerns considered by the office to be of greatest concern to the health, safety, security, and well-being of Georgia's citizens; and

(7) Establishing a process to set research priorities that utilize the GDAC Project to provide effective and efficient policy management for the state.

45-12-153.

(a) Any state agency or department that creates, receives, or maintains publicly supported program, fiscal, or health data shall, only after execution of an enforceable data use, data sharing, or other similar agreement that is acceptable to the state agency or department, transmit or allow access to such data as is necessary and appropriate to further the purposes

of this part and shall cooperate with GDAC Project requests for receipt of or access to such data. Notwithstanding the foregoing, any state agency or department shall not be required to transmit data which it creates, receives, or maintains to the GDAC Project or to allow access to such data if the Attorney General's review or the applicable state agency's or department's review determines that such transmission or access would violate state or federal law. The Attorney General's review shall include consideration of an analysis from the state agency or department whose data are being requested.

(b) This Code section shall not prohibit the office or any agency or department from creating, receiving, maintaining, or transmitting data in data systems that are separate and distinct from the GDAC Project.

45-12-154.

No later than July 1, 2020, upon the receipt of data by the GDAC Project pursuant to this part, and on an annual basis thereafter, the office shall publish a report that is made available and accessible to the General Assembly consisting of:

(1) A description of the implementation of the GDAC Project, including identification of the sources and types of data received and maintained by the GDAC Project over the prior 12 months;

(2) A list of all aggregated data maintained by the GDAC Project;

(3) A description of each IRB approved disclosure of data or data sets by the GDAC Project;

(4) A list of publications and other reports based on GDAC Project data;

(5) A strategic plan for achieving the purposes of this part during the successive 12 month period; and

(6) Any other information deemed appropriate by the office.

45-12-155.

The office may apply for and receive funding in relation to the GDAC Project from the following sources:

(1) Grants from research or other private entities;

(2) Fees paid by persons or entities requesting access to GDAC Project data or the performance of analyses by the GDAC Project, which fees have been approved by the office to support the cost of preparing data for access or performing analyses;

(3) Federal grants;

(4) Grants or other financial assistance from state or local departments, agencies, authorities, and organizations at the discretion of such entities, for specific projects of interest to such entities; and

169 **SECTION 2.**
170 All laws and parts of laws in conflict with this Act are repealed.